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ALLEN CAPERTON BRAXTON.

"The hills are shadows, and they flow
From form to form, and nothing stands:
They melt like mist the solid lands,
Like clouds they shape themselves and go."

The reputation of lawyers is ephemeral. Their great work, as it were, is written on the sands, and their names pass away like shadows. Judges of the Supreme Courts live in their opinions, but the great arguments of counsel that mould, and from which the opinions were drawn, are forgotten, and the fame of the judges lives in the memory of succeeding generations.

All science and learning, it is said, are taken up in the ashes of the law. The lawyer's field is a wide one, and in our complex civilization it is necessary for him to know something of every subject, for the law extends to everybody and to everything, and the field of the lawyer is as wide as civilization and their influence is felt everywhere. They are in the majority in our legislative assemblies; they practically make and administer the laws, and they are the guiding spirits in all the great enterprises of the world. They are the advisers of corporations and trusts, some of which wield more power than ancient states, and practically the entire business of the country is under their direction, and in the growth of our civilization they have always been the defenders of liberty and the friends of the people, ready to protect all the people's interests, but as society grows more complex from year to year, the more difficult it is to have a right understanding of the law, and never before in the whole history of the law has the lawyer required so much character, learning and force, and it is not well to let the memories of the great, masterful lawyers pass away.



ALLEN CAPERTON BRAXTON.
(By courtesy of the *Richmond Times-Dispatch*).

without a recording note; and of all of Virginia's great lawyers, few, if any, ever surpassed the subject of this sketch.

Allen Caperton Braxton was the leader of the Virginia Bar, and he had grown to this high estate upon his own merit. He was a poor boy—his family fortune had been lost in the great War between the States. He had no powerful or influential friends to help him, but he had inherited a strong mind and a strong body, and he had the inspiration of a devoted and cultured mother who gave to him the spark of ambition, and her beautiful influence made him work and toil and strive and hope and live and love; and her beautiful life and character were ever before him to help and guide him.

No college doors ever opened to him, yet all learning was his field, and any one of the learned professions might have claimed him. He had apparently learned and absorbed all about him in our great, growing evolution of thought and mind. But he was not burdened with the too often useless learning of the schools where, like wagons overloaded, they break down, or the intellectual fire is put out with too much fuel.

The Braxtons were one of Virginia's historic families, and were connected with the Lees and Carters and with many of the most distinguished of Virginians, and their family's history was Virginia's history. Allen Caperton Braxton was the eldest child of Dr. Tomlin Braxton, of Cherohoke, on the Pamunkey, in King William County, Virginia, and his mother, Mary Caperton Braxton, was a daughter of Allen Caperton, of Monroe County, West Virginia, who was United States Senator from his State. He was born February 6, 1862, at the home of his grandfather while his parents were there on a visit. Cherohoke was his ancestral home where his Cavalier ancestor settled, and his family was known as the Braxtons of Cherohoke—a home always of refinement and culture, where his ancestor, Carter Braxton, a signer of the Declaration of Independence, was born, and where the grandmother of Herbert Spencer taught. Braxton was reared in this old Cavalier home, Cherohoke, and it was always dear to him, and he loved the names linked together—Braxtons of Cherohoke.

He was a delicate child, but soon grew into health and strength in the outdoor, active life that he lived, hunting and

rowing and fishing and working on the farm. He was a buoyant and joyous boy, full of hope and promise. He loved nature and lived in close touch with it, ever absorbing its sweet inspirations.

He had the advantages of a beautiful home life, and a family training of refinement and culture; and from his earliest years he was imbued with the historic associations of his old home and the sweet charms and memories of old Virginia life; and was taught to think of his State as a land of primal enchantments and subtle lures—a land of sunshine and of flowers, of romance and poetry and history; and he early realized that while Virginia is the cradle of our western civilization, it is withal fresh in the realm of opportunity. He always loved the spirit of the old South, but lived and acted to make the new South omnipresent.

His classical education was obtained at Pampatike Academy, a noted classical school near his home. At sixteen, he left school and began his career. He had no false pride, and worked at whatever his hands found to do, doing his best at everything, in business, railroading, and engineering, with the one steady and fixed purpose in view—to become a lawyer.

When his school life ended, his real education began. He had an intense desire to know and to learn how to do things. His mind reached out in every direction, mastering every subject he encountered. He realized that the law was the widest of fields, and that to be a lawyer he must know something about everything. He had many family demands and could not acquire the means to take a regular law course, but he read law under the direction of a lawyer, and from the beginning studied it as a practical profession, and every theory of the law he studied and considered as if supported by the facts of a case in hand, and he learned the law as no one would have taught it to him; and the only instruction that he had in the great subject of the law was a six weeks' summer course under John B. Minor, the South's great law teacher.

After many struggles and much self-denial and persistent study, he felt that he was able to practice his profession; and in 1883 located at Staunton among the Scotch-Irish—among a people very different from the Cavaliers—a cold, reserved peo-

ple, not joyous and hilarious and social like the people about Cherohoke. He had learned, though, to know these people in Monroe where his grandfather lived, and he had from his mother some of the Scotch-Irish blood. His friends tried to discourage him when he talked of beginning his profession in Staunton, for at that time there was a great Bar at Staunton, one of the best in the State, with many distinguished lawyers, Sheffey and Cochran, and Harrison and Tucker, Bumgardner, Ranson, Echols, Elder and others. Nothing, however, could discourage young Braxton. He had confidence and a stern resolution to succeed. I became acquainted with him a few weeks after he came to the Bar. He occupied an office on the old Court House Square with Charles E. Kemper, who was one of my old school friends, and at Kemper's office I first met young Braxton. He was a vigorous, energetic looking, young fellow, brawny and powerful, but had a striking appearance of intensity of purpose about him. He appeared always to be busy, always had, or seemed to have, something to do that was immediate and pressing. From the start he was diligent and hard working, faithful in doing little things, collecting accounts and remitting collections the same day, careful and painstaking in all business matters.

Shortly after he began to practice, he was appointed by the court to defend a negro charged with murder. The case was of a very serious character, and every one thought that there was little chance for the offender's life. It had been a long time since a beginner had tried a case at the Staunton Bar, and there was much interest in seeing how young Braxton would conduct himself. On the day of the trial, the courthouse was crowded and nearly every member of the Bar was present, and the prosecuting attorney who appeared in the case was of state-wide reputation as a prosecutor. Young Braxton, however, showed no embarrassment. He was as self-possessed and self-poised as if it had been an every-day business with him, without in the least showing any vein or symptom of conceit. From beginning to end he conducted the case like an old master of the profession, and saved his client's life.

This beginning was most unusual, and his ability was rec-

ognized at once. It is said that there are no geniuses in our profession, that they have no part nor lot with us. Young men of genius go right to the front in all other professions except in the law, and in the law I have never known nor heard of any one else in Virginia who bounded right to the front in the beginning as Braxton did. I came to the bar a short time after he begun to practice, and he was then recognized as one of the strong men at the Bar. His reputation was steadily growing and there was great demand for his services. He did not specialize; his ambition was not along any particular line. He desired to become an all-round lawyer," and he realized his ambition and became and was the same able, painstaking and powerful man whether before a law or equity court, and his presentation of cases to juries equalled that of any of the great masters of the profession.

There was no important litigation in our courts in which Braxton did not appear on one side or the other, and when he became a member of the Constitutional Convention of 1901, he was recognized as the leader of the Bar in the western part of the State. His devotion to his client was intense. He seemed inspired with his client's cause. He mastered every detail of the case. He became rapt and absorbed. He had no other thought but the case in hand and to represent his client faithfully and honorably, and to win his case by all legitimate means was his one end and purpose. All else was sacrificed to this—sleep, exercise and every physical enjoyment, and the social duties that he was so fond of were discarded. Nothing, too, appeared to escape his attention. The most minute detail was never overlooked, and the facts of his cases were marshaled about the principles of the law and presented with such power and argument and with such burning enthusiasm that he rarely ever lost a case. Never was any one more intense, more earnest, more persistent and with a clearer vision or better judgment.

It was recognized by the thinking people of Augusta County that Braxton was the man of all men to be elected to the Constitutional Convention. He was wedded, however, to his profession—the profession that he loved so much. His friends

did not believe that he would turn aside from it. They feared that he could not be induced to allow his name to be submitted to the people. When first approached about becoming a candidate, he laughed at the idea, replying, "I am a lawyer and I have no other ambition than to succeed in my profession." By much persuasion he was induced, however, to allow his name to be submitted, and his election to the Convention showed the good sense and wisdom of his constituents.

From the day of his election he refused to take any important cases that might interfere with his duties as a member of the Convention. He said, "I am going to represent my people as I have represented my clients; they are now my clients." And his days and nights he gave to the study of constitutional law. He was in the prime of his life, strong and robust, capable of the greatest labor. When he went to the Convention there was not a constitution in America that he had not read, and he had not confined his study to our own country but had read the constitutions and laws of other countries, and when he entered the Convention his friends expected him to be one of the leaders in that Convention of Virginia's ablest men. They who were close to him knew what time and labor he had spent to equip and fit himself for the great work before him. He was recognized and known as a great lawyer, but he had never been in the limelight. He had always avoided that. He was a modest man and his sole ambition was to do his duty.

The great ability of the man was not known throughout the State, but the first great question that came before the Convention brought him to the front—the debate about the Bill of Rights. He was called to his feet and his speech on that occasion was a great effort, a masterpiece of logic, and showing philosophical grasp of government, and his speech, it is believed, ranks with almost any oration in the history of this Commonwealth. His arguments were so convincing, so overwhelming, and his learning on constitutional law so wide and rich and the power and vigor of the man so manifest, that when he took his seat in the Convention Hall that day he was at once recognized as the master and leading spirit of the Convention.

He was made chairman of the Committee on Corporations and a member of the Committees on Judiciary and Final Revision; but there was not a subject of the Constitution to which he did not give attention. His chief consideration, however, was given to the provision relating to corporations. He had studied the corporation laws of every State of the Union and of every country of Europe. He had followed out and traced and analyzed every principle of corporation law. He was master of that great subject, but his plan met bitter opposition. All of the corporations of the State were arrayed against him and the ablest talent. To be able to meet the arguments of his opponents, for weeks and weeks he would shut himself up and study and work, always until the late hours of night. The ablest men in the Convention were opposed to him, and day after day he was called on to meet their arguments, but he was always ready, always prepared, always ready with facts and arguments, precedents and authorities to sustain and fortify his position. He felt and believed that that section was of vital interest to the people of the State, and his debates on that question were masterpieces, veritable classics.

The section of the Constitution regarding corporations and their proper control, of which Braxton was the author, showed his constructive statesmanship, and that provision stands and is recognized as the leading reform that the Convention accomplished. It swept from the legislative halls corporation legislation, and removed many bad influences. It checked and controlled corporation excesses, without in any way interfering with the interests of capital, and brought public service corporations under the control of the law so that they could not disregard the rights of the people in the State for gain. When the Constitutional Convention closed, it was generally recognized that Braxton had done a great work, and that he had been one of the master-spirits, if not the leading mind and spirit, of the Convention.

When the Constitution went into effect, vigorous attacks were made upon the provision relating to corporations. The railroads contested the validity of the provision at every point. The ablest and most brilliant lawyers of the State and of our

country were employed to battle against this provision, but this furnished splendid opportunities for the author of the measure. He was employed by the State to sustain this section. His briefs before the Supreme Court were masterful and his arguments in support of the provision were rich and luminous.

When his labors had ended in the Convention, he opened offices in Richmond, giving him a wider field of practice, and from that time on he gave his undivided attention to the study and practice of his profession. There was hardly a case of principal importance in the State in which he was not employed. His advice and opinions were sought everywhere.

He believed that his strength was so great that he could endure anything, but his health gave way in the spring of 1913, and from that time on to his death he was a constant sufferer, and some of his friends nearest to him believed that in his great efforts in the Constitutional Convention his health had been undermined, and it might, we believe, truthfully be said that he gave his life for his State and his people, and it is generally believed that Virginia never gave to the country an abler or more noble son.

As a trial lawyer he was a master, and brilliant and forceful as he was, he was always self-possessed, calm and courteous and good humored. He was respectful to the court and to his associates and opponents, and never have I heard him utter a word that would wound the feelings of any one. He was so considerate, so thoughtful, so wise, so judicious and self-possessed and calm—masterful always. His cases when he came to trial were prepared with the nicest care and painstaking. His evidence was presented in the natural and logical order. Every fact that could bear on the case was brought out in his examinations in chief and his witnesses always showed to the best for he was so calm and self-possessed that he inspired them with his own confidence and self-possession; and in cross-examination he was wise and prudent. He knew when to cross-examine and when not to, and realized that many cases are lost by unwary cross-examination; and in the presentation of cases to juries, we believe, he was never surpassed. His

masterly arguments were always lighted up with humor and ornamented with illustrations. They were natural and beautiful masterpieces, convincing and overwhelming, and few juries could withstand his eloquence and logic, burning from his soul. But of the many lawyers in this and other states that I have heard argue questions before courts, I have never known one who surpassed Braxton in presenting questions of law to courts. No questions were so entangled that he could not unravel them, no problems that he could not see through and elucidate, and he would argue the most complex questions in cases to courts in a simple, quiet manner nearly always convincing; and in giving advice and opinions he was as careful and painstaking as in the preparation of cases in court.

There was a charm and beauty about all of his life and character. In manner he was a typical Cavalier and in good fellowship he was never surpassed. He had the rarest wit and humor that I have ever known, a humor that gave a beautiful and pleasant flavor to everything that he said or did. He had a big, generous heart, kind and charitable to all, giving away freely to everybody. Money with him was like leaves. He gave to everybody that he thought needed help. His earnings were great; his individual earnings amounted to more than that of any other man in the State, I believe, but he gave away the greater part of all that he made. He could not endure to see suffering or hear about it. He was always seeking out someone to help; and he was always tender and gentle and loving as a mother.

This splendid, manly man had a great, massive and bold intellect extending out into the boundless seas of the unknown. He was free from all mysticisms, superstitions and terrorizing barbarisms—was emancipated from all these. He believed in the great love for humanity and was charitable and kindly toward all. He was the soul of courage, honor and justice, and his rule of life at all times was, as expressed by the many-tongued Bard,

"Be just and fear not,
Let all the ends thou aim'st at be thy country's,
Thy God's, and truth's."

His life shows what can be done by a man with a purpose, business honesty and intelligence, and by work and toil and perseverance. He was a splendid example for the young men of Virginia to follow. He did a great work for his State and his work will live long after him, and his example will light the way for many illustrious men to follow.

He was stopped from his labors about a year ago by the disease that ended his life on the 22d day of March, 1914. He was in the years of the highest mental maturity, and amid the very sweetest hours of life, and at a stage of maturity and wisdom that fitted him to enrich the world with his life for many years. The suffering that he endured cannot be described, but he bore it all with the calmness and patience characteristic of the man, and with gentle hands and tender words of love and hope he was comforted and cheered to the very end by the loved one who had long been his inspiration, and his wife for a few months.

Tender and beautiful are the thoughts of love that cluster about his spirit, and his remains now rest in the beautiful Hollywood on the banks of the historic James.

CHARLES CURRY.